

Application Number: 09/403,443
Reply to Final O.A. of November 26, 2003

Docket: 6955

REMARKS

The above amendments and these remarks are being submitted with a Request for Continued Examination (RCE) under 37 CFR § 1.114, and in response to the Office Action of November 26, 2003.

In the Action, The Examiner withdrew claims 21-23, asserting that they read on a different species than the originally presented claims. He said the application does not contain an abstract, and rejected claims 1-20 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 5,514,097 (Knauer).

In view of the accompanying RCE, the above amendments and these remarks, the withdrawal and rejections in the Office Action are respectfully traversed, and reconsideration is requested.

Withdrawal of claims 21-23

Claims 21-23 have been amended in view of the Examiners comments regarding "constructive election" and to advance the prosecution of the present application. Applicants request reconsideration of the withdrawal of these claims.

Abstract

An abstract, with the instruction that it should be added to the specification on a separate page following the claims, was submitted as an amendment with the previous Response, mailed February 27, 2003. A duplicate copy of the abstract is attached hereto as page 9. If the Examiner needs another copy, or a copy of the previously filed amendment in its entirety, he is invited to telephone the undersigned.

§ 102(b) rejections

Basically, the Examiner maintained the §102 rejection of the previous Office Action, reasserting that claims 1-20 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent

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5,514,097 (Knauer). However, it appears that the Examiner may have misunderstood or misconstrued the remarks about the claims and Knauer in the previous Response.

In the previous response, we pointed out that the propelling device of the present invention is operably coupled to the piston only by contact and that the piston, in turn, engages the plunger and moves the plunger inside the medicine container.

We explained that Knauer, in contrast, discloses a "push rod locking mechanism 626" and that the locking mechanism is required so "the plurality of assemblies move together" to deliver a dose. We pointed out that this is critical because Knauer is directed to an injection apparatus designed to push a plurality of assemblies, including the needle, forward with enough force so that the needle penetrates the patient's skin and the apparatus dispenses a dose of medicine in the tissue, thus sparing the patient the step of introducing an exposed needle into his or her own tissue. Thus, Knauer does not only not disclose the present invention, it teaches away from it.

→ not for piston!

We further explained that the advantage derived from the present invention is that the propelling device and the container of the present invention are separately accommodated in a common housing so that either the container, the propelling device or both can be exchanged simply since a mechanical connection between the propelling device, the piston and/or to the container does not first have to be released.

Notwithstanding the § 102 position adopted by the Examiner, which is not proper for at least the preceding reasons, applicants appreciate his comments about the separate accommodation of the propelling device and container, and have clarified claim 16 by amending it to adopt the Examiner's comments. Thus, claim 16 now recites that the "the propelling device and the container separately accommodated in the housing whereby either the container, the propelling device or both can be exchanged."

It should now be clear to the Examiner the claimed structure, i.e., operable connection by contact only, is not disclosed by Knauer. The advantage derived from this structure, i.e., that either the container, the propelling device or both can be exchanged simply since a connection

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between the propelling device, the piston and/or to the container does not first have to be released, should also be clear.

Reconsideration and allowance of the claims is requested.

Fees

It is believed that no claim fees should be due in connection with this response; however, the Office is hereby authorized to charge any deficiency, or credit any overpayment associated with this response, the accompanying petition for an extension of time to respond, or the accompanying RCE to Deposit Account 04-1420.

A check in the amount of \$1720.00 is enclosed (\$770.00 of which is to cover the RCE fee and \$950.00 of which is to cover the extension fee).

Conclusion

In view of the accompanying RCE, above amendments and preceding remarks, it is urged respectfully that the withdrawal of claims 21-23 and the rejection of claims 1-20 be reconsidered, and that they all be allowed. If the Examiner believes that it would be helpful, he is invited to telephone the undersigned.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date:

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By:

David E. Bruhn
David E. Bruhn, Reg. No. 36,762
Intellectual Property Department
Suite 1500
50 South Sixth Street
Minneapolis, MN 55402-1498
(612) 340-6317